



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG 2015-1086]

RIN 1625-AA00

Safety Zone; Intracoastal Waterway; Lake Charles, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Intracoastal Waterway (ICW) extending 100-yards east and west of ICW Mile Marker 244.5 located at position 30°03'38"N 093°22'19"W (NAD 83) in Lake Charles, Louisiana. This safety zone is necessary to protect personnel, vessels, and the marine environment from hazards created by high power electrical line installation operations via helicopter over the Intracoastal Waterway. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port, Port Arthur.

DATES: This rule is effective from 7 a.m. on January 4, 2016 through 6 p.m. on January 14, 2016. This rule will be enforced when personnel and equipment are on scene and conducting working on electrical lines.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket,

go to <http://www.regulations.gov>, type USCG-2015-1086 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Walt Goggans, Marine Safety Unit Lake Charles, U.S. Coast Guard; telephone 337-491-7883, email Thomas.W.Goggans@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect vessels and mariners from the hazards associated with electrical line installation operations over the Intracoastal Waterway. The Coast Guard was not notified of the impending electrical line installation by ENTERGY until approximately three weeks prior to the date of the planned installation. After review of the details, the Coast Guard determined action is needed to protect

vessels and mariners from the potential hazards created by the electrical line installation. It is impracticable to publish an NPRM because we must establish this safety zone by January 4, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. The Coast Guard received less than 30-day's notice that ENTERGY set the electrical line installation date for January 4, 2016 through January 14, 2016. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with electrical line installation operations over the Intracoastal Waterway. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners (BNM) and will be published in the Local Notice to Mariners (LNM).

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port, Port Arthur (COTP) has determined that the hazards associated with high power line installations beginning January 4, 2016 through January 14, 2016 will be a safety concern for anyone within a 100-yard radius of helicopter cable installation operations. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while high power cable installation operations occur.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. on January 4, 2016 through 6 p.m. on January 14, 2016. The safety zone will cover all navigable waters, shoreline to shoreline, extending 100-yards to either side of helicopter high power cable installation operations and

machinery being used by personnel to install the high power cables. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the electrical lines are being installed. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. This rule will only be enforced for short periods when the channel is obstructed or cable installation operations over Intracoastal Waterway pose hazards to mariners. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessel to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The

term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on vessel owners or operators.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than 10 days that will prohibit entry within 100-yards of vessels and machinery being used for high power cable installation. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T08-1086 to read as follows:

§ 165.T08-1086 Safety Zone; Intracoastal Waterway; Lake Charles, LA.

(a) **Location.** The following area is a safety zone: all waters of the Intracoastal Waterway (ICW) extending 100-yards east and west of ICW Mile Marker 244.5 located at position 30°03'38"N 093°22'19"W , Lake Charles, Louisiana. The coordinates are based on (NAD 83).

(b) **Effective periods.** This rule is effective from 7 a.m. on January 4, 2016 through 6 p.m. on January 14, 2016. This rule will be enforced when personnel and equipment are on scene and conducting working on electrical lines.

(c) **Regulations.** (1) Under the general safety zone regulations in §165.23 of this part, entry into this zone is prohibited to all vessels except those vessels specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (337) 912-0073.

(3) All persons and vessels shall comply with the lawful orders or directions given to them by the Captain of the Port, Port Arthur or the Captain of the Port's designated representative. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard

(d) Information broadcasts. The Coast Guard will inform the public through broadcast notices to mariners of the enforcement periods for the safety zone as well as any changes in the schedule.

Dated: December 15, 2015

R.S. Ogrydziak,
Captain, U.S. Coast Guard,
Captain of the Port, Port Arthur, Texas

[FR Doc. 2015-33072 Filed: 12/31/2015 8:45 am; Publication Date: 1/4/2016]